

HOUSE BILL No. 1300

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-47-3-2.

Synopsis: Destruction of confiscated firearms. Requires the destruction of firearms confiscated by law enforcement officials.

Effective: July 1, 2001.

Smith V

January 9, 2001, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

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HOUSE BILL No. 1300



A BILL FOR AN ACT to amend the Indiana Code concerning public safety administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-47-3-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) This section
3 applies only to firearms which are not required to be registered in the
4 National Firearms Registration and Transfer Record.

5 (b) Firearms shall be returned to the rightful owner at once
6 following final disposition of the cause if a return has not already
7 occurred under the terms of IC 35-33-5. If the rightful ownership is not
8 known the law enforcement agency holding the firearm shall make a
9 reasonable attempt to ascertain the rightful ownership and cause the
10 return of the firearm. However, nothing in this chapter shall be
11 construed as requiring the return of firearms to rightful owners who
12 have been convicted for the misuse of firearms. In such cases, the court
13 may provide for the return of the firearm in question or order that the
14 firearm be at once delivered:

- 15 (1) except as provided in subdivision (2), to the sheriff's
- 16 department of the county in which the offense occurred; or
- 17 (2) to the city or town police force that confiscated the firearm, if:



- 1 (A) a member of the city or town police force confiscated the
2 firearm; and
- 3 (B) the city or town has a population of more than two
4 thousand five hundred (2,500) and less than two hundred fifty
5 thousand (250,000).
- 6 (c) The receiving law enforcement agency shall dispose of firearms
7 under subsection (b) ~~at the discretion of the law enforcement agency;~~
8 not more than one hundred twenty (120) days following receipt ~~the~~
9 **date the law enforcement agency receives the firearms** by use of any
10 of the following procedures:
- 11 (1) Public sale of the firearms to the general public as follows:
- 12 (A) Notice of the sale shall be:
- 13 (i) posted for ten (10) days in the county courthouse in a
14 place readily accessible to the general public; and
- 15 (ii) advertised in the principal newspaper of the county for
16 two (2) days in an advertisement that appears in the
17 newspaper at least five (5) days prior to the sale.
- 18 (B) Disposition of the firearm shall be by public auction in a
19 place convenient to the general public; with disposition going
20 to the highest bidder. However, no firearm shall be transferred
21 to any bidder if that bidder is not lawfully eligible to receive
22 and possess firearms according to the laws of the United States
23 and Indiana.
- 24 (C) All handguns transferred under this subdivision shall also
25 be transferred according to the transfer procedures set forth in
26 this article.
- 27 (D) Money collected pursuant to the sales shall first be used to
28 defray the necessary costs of administering this subdivision
29 with any surplus to be:
- 30 (i) deposited into the receiving law enforcement agency's
31 firearms training fund; if the law enforcement agency is a
32 county law enforcement agency; or into a continuing
33 education fund established under IC 5-2-8-2; if the law
34 enforcement agency is a city or town law enforcement
35 agency; and
- 36 (ii) used by the agency exclusively for the purpose of
37 training law enforcement officers in the proper use of
38 firearms or other law enforcement duties; if the law
39 enforcement agency is a county law enforcement agency; or
40 for law enforcement purposes; if the law enforcement
41 agency is a city or town law enforcement agency.
- 42 (2) Sale of the firearms to a licensed firearms dealer as follows:

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- 1 (A) Notice of the sale must be:
 2 (i) posted for ten (10) days in the county courthouse in a
 3 place readily accessible to the general public; and
 4 (ii) advertised in the principal newspaper of the county for
 5 two (2) days in an advertisement that appears in the
 6 newspaper at least five (5) days before the sale.
- 7 (B) Disposition of the firearm shall be by auction with
 8 disposition going to the highest bidder who is a licensed
 9 firearms dealer.
- 10 (C) Money collected from the sales shall first be used to defray
 11 the necessary costs of administering this subdivision and any
 12 surplus shall be:
 13 (i) deposited into the receiving law enforcement agency's
 14 firearms training fund or other appropriate training activities
 15 fund; and
 16 (ii) used by the agency exclusively for the purpose of
 17 training law enforcement officers in the proper use of
 18 firearms or other law enforcement duties.
- 19 (3) Sale or transfer of the firearms to another law enforcement
 20 agency.
- 21 (4) Release to the state police department laboratory or other
 22 forensic laboratory administered by the state or a political
 23 subdivision (as defined in IC 36-1-2-13) for the purposes of
 24 research, training, and comparison in conjunction with the
 25 forensic examination of firearms evidence.
- 26 (5) ~~Destruction of~~ **destroying** the firearms.
- 27 (d) Notwithstanding the requirement of this section mandating
 28 disposal of firearms not more than one hundred twenty (120) days
 29 following receipt, the receiving law enforcement agency may at its
 30 discretion hold firearms it may receive until a sufficient number has
 31 accumulated to defray the costs of administering this section if a delay
 32 does not exceed one hundred eighty (180) days from the date of receipt
 33 of the first firearm ~~in the safe lot.~~ **by the law enforcement agency.** In
 34 any event, all confiscated firearms shall be ~~disposed of~~ **destroyed** as
 35 promptly as possible.
- 36 (e) When a firearm is delivered to the state police department
 37 laboratory or other forensic laboratory under subsection (c)(4) and the
 38 state police department laboratory or other forensic laboratory
 39 determines the laboratory has no further need for the firearm in
 40 question, the laboratory shall return the firearm to the law enforcement
 41 agency for disposal under subsection (c).

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